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GENERAL HEADINGS.

Cases Reported this Week.

Current Topics.

The New Judge of the City of London Court.

THE ANNOUNCEMENT that Mr. ATHERLEY-JONES has been appointed to be Judge of the City of London Court shews that there was substance in the recent rumours which designated him as successor to Judge LUMLEY SMITH. The new judge has shewn himself in his career at the bar to be fully qualified for such promotion, and the social service he has rendered in the course of his political career has fully earned it. Social service of this kind imposes, as Mr. ATHERLEY-JONES recently told his constituents, a tax which may become too burdensome, and we are glad that the burden has been thus removed.

The New Legal Peers.

THE NEW Year's honours are chiefly noteworthy for the conferring of a peerage on Mr. JAMES BRYCE. He has been a conspicuous illustration of the good which may be done by reinforcing diplomacy from the ranks of lawyers, and we hope to see this course become general. The Lord Chief Justice and the Lord President, Mr. ALEXANDER URE, known since he succeeded Lord DUNEDIN as Lord STRATHCLYDE, both receive baronies, and the Prime Minister has done a graceful act in advising the King to confer the same honour on Sir C. A. CRIPPS, K.C. Doubtless we are drawing near to the time when there will be an end to distinctions of this particular nature, and no one can foretell what will take their place. Under a more rational system it certainly will not involve the change of name which often now renders it difficult to follow the course of public men. But, for the present, nothing better than the mediæval system of peerages exists. The list also includes a knighthood for Judge LUMLEY SMITH.

New Statutes.

THREE ACTS passed in the last Session of Parliament came into force on the 1st inst.: The Fabrics (Misdescription) Act, 1913 (3 & 4 Geo. 5, c. 17), which is intended to prevent the selling of textile fabrics as non-inflammable unless they conform to such standard of non-inflammability as may be pre-

scribed by regulations to be made by the Home Secretary; the Forgery Act, 1913 (c. 27), which consolidates, simplifies, and amends the law relating to forgery and kindred offences; and the Industrial and Provident Societies (Amendment) Act, 1913 (c. 31), which makes various alterations in the Industrial and Provident Societies Act, 1893, as to audit of accounts, annual returns, nominations, death duties, and otherwise. There are also two statutes of last year which are not yet in operation: the Mental Deficiency Act, 1913 (3 & 4 Geo. 5, c. 28), and the Bankruptcy Act, 1913 (c. 34). The date of commencement of each is 1st April next.

The New Pronunciation of Latin.

THE RESOLUTION passed by a majority of the head-masters of our public schools, approving of the new pronunciation of the Latin language, is not without interest to those who practice at the bar, inasmuch as it may require them at no distant period to refer to certain familiar maxims in a manner wholly different from that which has subsisted beyond legal memory. Whether the new pronunciation will be received by our bench with that patience and quickness of perception, which is their usual characteristic, may be doubted. Lord CAMPBELL had a somewhat malicious pleasure in describing the misadventures of certain eminent legal practitioners in the short and long vowels of the Latin language. The importance of a standard pronunciation or mispronunciation cannot be exaggerated. Counsel who have occasion to read extracts from the Code Napoleon have been warned that it is sometimes possible to be too good a reader aloud of a foreign language. We have been told, on the other hand, that the late Sir ALEXANDER COCKBURN, who was a finished French scholar, was once unable to follow some French correspondence read *viva voce* by one of the leaders of the bar.

Criminal Appeal in England.

SOME INTERESTING points of importance for the consideration of our jurists and legal reformers have been suggested by recent references to criminal appeal by public men on public occasions. There are three stages in criminal jurisprudence. The first is that in which an infant civilization feels it necessary to curb disorder and violence with a strong hand; its chief object is to maintain the King's Peace at all costs; therefore it must at once deter offenders by swift, summary, severe punishment, and convince the law-abiding citizen that he need not resort to personal reprisals by way of self-defence. In this stage, judges and legislators are less concerned with the securing of justice for the accused than with the protection of the community. But when order has been sufficiently established, a new sentiment arises in connection with the administration of justice; men wish to be certain that only guilty persons are punished. Each member of the community feels that his friends or himself may be the victims of a mistaken accusation, and wishes to safeguard such victims from an unjust conviction. The second stage of criminal jurisprudence, then, is chiefly concerned with the protection of innocent accused persons by securing for them a fair trial. When this has been partially achieved, a new feeling makes itself felt. Men of enlightened views begin to consider the case of the guilty prisoner, and to desire that he, too, may be treated fairly. Fairness, in his case, means that no excessive or unnecessary punishment, will be inflicted upon him, and that, so far as possible, his reformation will be aimed at, as well as the deterrence of others by the infliction of penalties upon him. The evolution of these three stages, whose leading ideas are respectively the protection of the community, of the innocent accused, and of the guilty, has of course no chronological sequence; each is evolved side by side with the others, but in the earlier ages, the earlier stages evolve the more rapidly. In modern England we have long ago carried to something like perfection the first of these tasks, and lynch-law is as unknown as it is unnecessary. The last of the three has scarcely yet secured adequate public sympathy and support; archaic and savage punishments are not yet extinct among us. The second stage is to-day the one most in evidence, and the Court of Criminal Appeal is engaged in the great task of seeing that no innocent man shall be unjustly condemned.

Criminal Appeal in the Empire.

IT IS interesting also to note that even the question of Criminal Appeal is at different stages in different parts of the Empire. In Scotland, as a famous Scots judge, Lord SALVESEN, has just been pointing out in an address to the Scots Law Society, there is no form of Criminal Appeal either in fact or in law. The absence of any such remedy his lordship ascribed to the absence of any sensational and striking case of injustice in Scotland within recent memory, such as the *Beck case* in England, which led directly and immediately to the establishment of our Court of Criminal Appeal. But the absence of striking cases, as Lord SALVESEN justly considers, does not mean the absence of real hardship and miscarriage of injustice; it is only once in a thousand times that the innocence of a twice convicted prisoner is demonstrated in such a striking way as that of Adolph Beck by the capture of the true criminal at the very moment when the accused was awaiting sentence. Such poetic coincidences seldom occur in actual life to assist the unfortunate. But it certainly seems desirable that the benefits of Criminal Appeal should be extended to Scotland without further delay; as for Ireland, all special legislation for that country is at present of necessity in abeyance until the fate of Home Rule is decided. Again, in England, although we have a Court of Criminal Appeal which is doing most excellent work, there are defects in the system which Lord SALVESEN pointed out. One is the absence of any provision for new trials in cases where a conviction has been quashed on a technicality; but although the recent King's Bench Commission have recommended that this defect should be remedied, there is much division of opinion among experienced practitioners at the criminal bar as to the wisdom of such a proposal. Certainly, if these trials are permitted, the prisoner should be adequately defended at the public expense upon his second trial; it is unfair that the cost of a fault not his should be placed upon his shoulders. Again, in the overseas dominions of the Crown, anomalous conditions prevail. In some dependencies, such as India, there is appeal open to both prosecution (under a different name) and defence; in others, criminal appeal is unknown. In all, however, the Privy Council Committee will interfere, and grant special leave to appeal where "natural justice" has been violated. But the Committee, Lord HALDANE has just said in the recent appeal of *Armstrong* v. *The King* (*Times*, December 19th), is not a Court of Criminal Appeal, and will not interfere merely because of irregularities and mis-directions which would lead such a court to quash the conviction.

Covenants in Restraint of Trade.

THE COURT OF APPEAL (COZENS-HARDY, M.R., and BUCKLEY, L.J.; SWINFEN EADY, L.J., *diss.*), in *Eastes* v. *Russ* (*Times*, December 21st), gave an important decision upon the principles which govern the validity of covenants in restraint of trade. A physician entered into an engagement with another physician to serve him as a pathological assistant in his research laboratory. The engagement was not for a fixed period, but was terminable upon one month's notice on either side. The assistant bound himself "not to engage in similar work within a distance of ten miles from the laboratories either for himself or on behalf of any other institute of a like character." This undertaking SARGANT, J., construed as merely binding the assistant while his engagement continued. But all three judges in the Court of Appeal took the view that the covenant in fact purported to bind the assistant during his whole life, and the question then arose as to whether or not such covenant was reasonable. SWINFEN EADY, L.J., considered that the covenant went no further than was reasonably necessary for the protection of the plaintiff's business on the principle laid down in *Nordenfelt* v. *Maxim-Nordenfelt Co.* (1895, A. C. 535); for although the covenant was unrestricted as to time, it was confined to an area within ten miles of the plaintiff's business in Harley-street, and the defendant had the rest of the world in which to choose an establishment. But in effect an English physician has only the British Isles in which to practice. If he is a specialist in a very limited sphere, such as is that of an expert pathologist, he is, in fact, unable to pursue that speciality outside the Metropolis; possibly not even outside

Harley-street. An undertaking binding him not to practice within ten miles of that street, and covering the duration of his lifetime, simply means that he cannot specialize at all in the branch of practice to which the undertaking relates. When that is so, the rule recently laid down by the House of Lords in *Mason* v. *Provident Clothing Co.* (57 SOLICITORS' JOURNAL, 739 ; 1913, A. C. 724), is in point. The court will distinguish between a restrictive covenant in a contract of service on the one hand, and a similar covenant contained in a document selling the goodwill of a business or guarding against the disclosure of a trade secret on the other. In the latter cases the restraint will be upheld unless clearly opposed to the public benefit; but, in the former case, the court will watch with the utmost jealousy any attempts to debar a man, who has entered into a contract of service, from pursuing his vocation elsewhere, and in case of doubt will impose on the employer the onus of proof. For this reason the Court of Appeal held the present covenant unreasonable and therefore invalid.

Federal Constitutions and the Privy Council

AN IMPORTANT decision affecting federalism has recently been given by the Privy Council in *Commonwealth of Australia* v. *Colonial Sugar Refining Co.* (*Limited*) (*Times*, December 18th). The appeal came before the board in peculiar circumstances. When Australia was granted a federal constitution in 1900, the various states of the Commonwealth were anxious that constitutional questions arising in Australia should be settled by local judges who understood the local point of view. They feared that, in the interpretation of a public document such as this, a board sitting on the other side of the world might fail to appreciate the spirit of the polity they had to construe. Hence it was provided by section 74 of the Commonwealth Act, 1900, that the Australian High Court should be the final court of appeal on questions (1) arising between the Australian States *inter se*, (2) concerning the limits of the powers granted respectively to the Commonwealth and the separate states. But to this finality one exception was made; the High Court might itself certify that the case was a proper one for appeal to the Privy Council. In the present case the judges of the High Court were equally divided, and therefore they were induced to take the jealously guarded and very exceptional course of granting a certificate for appeal. The question was one of great interest. The Commonwealth Parliament had passed Royal Commission Acts in 1902 and 1912 which gave the Federal Government power to set up Royal Commissions with powers quite unknown to English Royal Commissions, and in fact resembling those of the Star Chamber more closely than any modern tribunal can hope to obtain. In the judgment delivered by Lord HALDANE on behalf of the board, he points out that in Australia, as in the United States, each separate state is a Sovereign State, and possesses all powers of legislation except those reserved to the Commonwealth Parliament or retained by the Imperial Parliament. Hence the Commonwealth Parliament only possesses such powers as are expressly granted to it by the Constitution, or necessarily implied by that document. But the power to appoint Royal Commissions is not so expressly granted. The Commonwealth, however, contended that the power to appoint such Commissions is necessarily implied, since, before a Parliament can legislate, it must possess information, and it has an inherent right to get that information by appointing a Commission. This claim, however, rests on a confusion of thought. No doubt the Federal Executive, as representing the Crown, can exercise the Royal Prerogative by appointing Royal Commissions under the common law with ordinary powers. But this does not confer on the Federal Parliament a right to legislate concerning such Commissions. Such legislation, when not expressly allowed by the constitution, is *ultra vires*; and therefore the board declared the Royal Commissions Acts invalid.

Assessment of Income Tax.

A QUESTION OF some practical importance was decided by HORRIDGE, J., a fortnight ago in *General Hydraulic Co.* (*Limited*) v. *Hancock* (*Times*, December 18th). The assessable income derived from a business is, of course, not the actual profits made in the year of taxation, for these cannot be ascertained beforehand by any methods of divination known to man; it is a statutory income computed by taking the average of the three preceding years. Schedule D, under which such statutory income is assessed and calculated, permits the deduction from gross profits of certain necessary business expenses, one of which is the rent of the premises occupied for the purpose of carrying on the business. But suppose a man carries on his business in his own freehold premises, what is he allowed to deduct? The Income Tax Acts are silent upon this particular case, but the courts have held by analogy that he is entitled to deduct the annual value of the premises as assessed under Schedule A (*Russell* v. *Town and County Bank*, 13 App. Cas. 418). But in deducting business expenses (including rent) from gross profits in order to arrive at the statutory income, the tax-payer deducts the average expenses of the past three years from the average gross profits of the same period in order to get net profits, *i.e.*, assessable income. When he occupies his own premises and deducts their annual value as ascertained under Schedule A, it seems clear that he ought likewise to deduct the average annual value as assessed during the last three years, and so the Commissioners had held. But the appellant company argued that the intention of the Income Tax Acts was to ascertain as best one could the income and the business expenses of the coming year. The former can only be discovered by taking some rough and ready test, and therefore the average of the past three years is employed. But the latter, when consisting of the annual value of business premises, needs no such rough and ready test; it is already ascertained for the coming year under Schedule A. Surely, then, that ascertained amount should be deducted and not the approximate one derived by a round about calculation! The answer to this ingenious argument seems to be that it is not the plan contemplated by the statute; you cannot have one mode of calculating the ordinary business expenses and another of calculating the rent to be deducted. As a rule, the result would be the same whichever method was employed. Only when the assessable value of the premises under Schedule A goes up or down can it make any difference, and then this value is averaged like the profits and the other expenses.

Mr. Charles Butler, the Conveyancer.

IN A WORK recently published containing a collection of the letters of Madame PIOZZI (1788–1822) it appears that that lady became involved in litigation arising out of the construction of the marriage settlement of her first husband, Mr. THRALE. Madame PIOZZI tells us that BUTLER "who is employed on our side has a high character in his profession as 'Chamber Council.' Being a Roman Catholic, he cannot reach the honours of his calling, but rests contented with the profits." The BUTLER referred to was Mr. CHARLES BUTLER, editor of "Coke upon Littleton," in conjunction with Mr. HARGRAVE. The penal laws of England, which were in force in 1775, prevented Roman Catholics from being called to the bar, and Mr. BUTLER, after being entered at Lincoln's-inn, commenced practice under the bar as a conveyancer. He had obtained much eminence in his profession at the time of the passing of the Enabling Act (31 Geo. 3, c. 32), which relieved barristers from the necessity of making the declaration against transubstantiation, and in 1791 he was called to the bar, being the first Catholic barrister since the revolution of 1688. At a later period, in 1831, after the passing of the Roman Catholic Relief Act, he was called within the bar and made a bencher of Lincoln's-inn. A still more conspicuous example of the growth of religious toleration is to be found in the latest appointment to the judicial bench.

Last week Mr. Augustus F. Drake retired from the position of clerk to the Lewes Bench of Magistrates after thirty years' service. At the close of the petty sessions at Lewes, on the 23rd of December, Mr. F. B. Whitfield, chairman of the bench, presented him with a silver salver as a mark of esteem from the bench. He spoke of the high regard the magistrates had for Mr. Drake and of the careful and conscientious manner in which he had discharged his duties. Mr. Drake, in returning thanks, alluded to the great increase in the variety of cases coming before local magistrates, and pointed out that the "Justices' Manual" now contained almost seven times as much matter as it did when he first became connected with magisterial work.

Under What Circumstances the Registration of a Trade-Mark is Conclusive.

THE case of *Andrew & Co.* v. *Kuehnrich* (30 R. P. C. 677), is an interesting one in several respects, but particularly because it involves the construction of the first part of section 41 of the Trade-Marks Act, 1905, which had not previously been the subject of judicial decision. Section 41 runs as follows:—"In all legal proceedings relating to a registered trade-mark (including applications under section 35 of this Act) the original registration of such trade-mark shall, after the expiration of seven years from the date of such original registration (or seven years from the passing of this Act, whichever shall last happen), be taken to be valid in all respects, unless such original registration was obtained by fraud, or unless the trade-mark offends against the provisions of section 11 of this Act." Then follows a proviso as to concurrent user, with which we are not concerned in these remarks, and which, being of general operation, wou'd, we think, have been more conveniently introduced in a separate section. This proviso came into operation on the 1st of April, 1906, but the first part of the section only became effective on the 11th of August, 1912, when seven years from the passing of the Act expired. After the decision in *Andrew & Co.* v. *Kuehnrich*, it is certain that the validity of the registration of a trade-mark cannot, after it has been registered for seven years, be now questioned in any civil proceedings, unless (*a*) the registration was obtained by fraud, or (*b*) the trade-mark offends against the provisions of section 11 of the Act; but the trade-mark is still liable to be removed from the register for non-user under section 37.

What constitutes "fraud" for the purposes of section 41 can only be definitely settled by judicial decision. There may be fraud on the Patent Office, in which case the Registrar may apply to expunge the mark from the register under section 35; or there may be fraud on an individual or individuals, in which case any person aggrieved can apply to expunge under the same section. If a man registers a trade-mark which he knows to belong to someone else, that would clearly be a fraud; but if he registers a trade-mark which, although he does not know it, in fact belongs to someone else, would that be fraud? We think it would not. The idea of fraud involves a *mens rea*, which would not exist in this case. Coming to (*b*), the original registration will not be valid if the trade-mark offends against the provisions of section 11. That section is as follows:—"It shall not be lawful to register as a trade-mark or part of a trade-mark any matter, the use of which would, by reason of its being calculated to deceive or otherwise, be disentitled to protection in a court of justice, or would be contrary to law or morality, or any scandalous design." There have been many cases in which the provisions of this section (or the corresponding section of the Act of 1883) have come into question, especially as regards the words "calculated to deceive." A mark may be "calculated to deceive" on a variety of grounds, including resemblance to a mark previously used by someone else, or as otherwise conveying a false idea of the origin of the goods, but no general rule as to what is "calculated to deceive" has been or can be laid down: see *Van de Leeuw's Trade-mark* (1912, 1 Ch. 40, 28 R. P. C. 708). Whether a mark is "calculated to deceive" or not must depend on the special circumstances of each case. Section 41 was intended by the Legislature as an additional benefit to trade-mark owners, but having regard to the attitude, amounting almost to antagonism, which the Courts have manifested during the last few years in relation to trade-marks, we anticipate that a wide interpretation of section 11 will be made use of to deprive trade-mark owners of the full benefit of section 41. An interesting point is this: if it be clear that, at the date of registration, the trade-mark was not calculated to deceive, but by reason of subsequent events it has become calculated to deceive, does it lose the protection of section 41? As it is the "original" registration that is the subject-matter of the section, it might (and we think should logically) be held that the original registration cannot be vitiated under the section by subsequent events; but as the language is "unless the trade-mark"—not the registration—offends against section 11, the courts will be inclined to hold that, as the trade-mark becomes subsequently an offender against section 11, the original registration loses the protection of section 41.

It is clear, since the decision in *Andrew & Co.* v. *Kuehnrich* (*supra*), that a registered trade-mark, even after seven years from its registration, may be removed from the register under section 37. That section is as follows:—"A registered trade-mark may, on the application to the court of any person aggrieved, be taken off the register in respect of any of the goods for which it is registered, on the ground that it was registered by the proprietor, or a predecessor in title, without any *bonâ fide* intention to use the same in connection with such goods, and there has in fact been no *bonâ fide* user of the same in connection therewith, or on the ground that there has been no *bonâ fide* user of such trade-mark in connection with such goods during the five years immediately preceding the application, unless in either case such non-user is shewn to be due to special circumstances in the trade, and not to any intention not to use or to abandon such trade-mark in respect of such goods." It will be noticed that there are, under the section, two grounds for removal, which are distinct, (1) that the registration was made without a *bonâ fide* intention to use the mark, and that there has been no *bonâ fide* user thereof; (2) that there has been no *bonâ fide* user thereof during the five years immediately preceding the application to remove. It was under (2) that the Court of Appeal removed one of the plaintiffs' marks in *Andrew & Co.* v. *Kuehnrich*. A question was raised in that case by BUCKLEY, L.J., but not decided, whether or not there should be read into the passage in the section "user of such trade mark in connection with such goods" the words "as a trade-mark;" *e.g.*, if the proprietor of a registered trade-mark uses that registered trade-mark on his goods as a quality mark, and not to indicate that the goods were his, would that be "user of such trade-mark upon or in connection with such goods?" We think that it would. "Such trade-mark" means "the registered trade-mark," *i.e.*, the thing registered, and if a man in fact uses his registered trade-mark in connection with his goods it appears to us immaterial for the purposes of the section under consideration how he uses it.

It will be observed that the section says, "may . . . be taken off the register," not "must be," so that there is in all cases a discretion in the court whether to make an order for removal or not. Again, the application of the concluding words of the section from "unless" in cases falling under alternative ground (2) is obvious, but the application in cases falling under alternative (1) is not so obvious. It is not impossible that "either" was inserted by mistake, and that the intention of the Legislature was that the concluding words should apply only to cases falling under alternative (2); but as the section stands, the question arises, can, under any circumstances, the concluding words be applicable in cases falling under the first alternative. We think that under exceptional circumstances they may: *e.g.*, A registers a trade mark without intending to use it; subsequently he resolves to use it on some of the goods for which it is registered, but before he can carry his resolution into practical effect, owing to some "special circumstances" in trade he cannot, with commercial advantage, put these goods on the market, so he postpones doing so to a more convenient season. This would, we think, bring his trade-mark under the protection of the concluding words of the section.

Of course on an application under section 37 the onus is on the applicant to prove his case: it is for him to prove, if he alleges it, that the trade-mark was registered without any *bonâ fide* intention to use it, and it is for him to prove the fact of non-user; but if the applicant establishes a *primâ facie* case, it is for the owner of the trade-mark to prove facts bringing him within the protection of the concluding words of the section.

Finally, it should be noticed that what the court is empowered to do is to take the trade mark off the register "in respect of any of the goods for which it it is registered," so that the court may either remove the trade mark in respect of all such goods or only in respect of some of such goods. Therefore, if A has registered a trade-mark in class 42 for tea, sugar and pickles, and has used

it for tea and sugar, but not for pickles, it may be taken off the register in respect of pickles, and left on the register for tea and sugar.

The Real Property and Conveyancing Bills.

The Proposed Changes in Registration of Title.

IX.

Miscellaneous Amendments.—We have covered now the principal amendments which it is proposed to make in the system of Registration of Title. The following slight corrections requires to be made. On p. 64, *ante* (15th November), line 10, "transferer" should be "transferee"; on p. 79 (22nd November), "clause 3 (4)" in the third paragraph should be "clause 67 (4)"; and on p. 94 (29th November), line 16 from the bottom, "carried" should be "carries." Attention should also be called to the following matters.

Clause 68 (1) of the Real Property Bill strikes at the employment of deeds on and off the register for the same transaction, and provides that collateral deeds shall be void so far as the transaction is carried out by the registered disposition. The provision is unnecessary and is likely to lead to confusion. Collateral deeds are required to supplement the register, and they do not cover the same ground. It is common practice for a shipping mortgage to be accompanied by a collateral deed, but its scope is quite distinct from the register, and no one has ever dreamt of making any objection. This clause should be struck out and practitioners should be left to adapt their conveyancing practice to the register in their own way.

Clause 73 confers additional powers on the registered proprietor, and enables him to enter into contracts which will be enforceable against his successors on the register; and similarly the registered proprietor may attach to the land the benefit of contracts and of easements and restrictive covenants. This is all part of the policy of making the registered proprietor the real owner of the land for the time being for all purposes. Clause 74 replaces section 16 (1) of the Act of 1897, and defines over again the duty of the vender as to deducing title on a sale of registered land. It is unnecessary to consider it in detail at present, and with regard to clause 76 (provisions as to bankruptcy of the registered proprietor), and clause 78 (death duties), it is sufficient to observe that they follow the lines of the corresponding clauses of the Conveyancing Bill (clauses 23-25). As to death duties it is proposed that they shall cease to be a charge on the land, but the vendor will remain personally liable and the charge will be transferred to the proceeds of sale.

Under section 22 (4) of the Act of 1897 the Registry fees are to be arranged so as to produce an annual amount sufficient to meet the expenses, including the annual contribution to the Insurance Fund. Clause 79 of the Real Property Bill proposes that the Lord Chancellor, with the consent of the Treasury, should, with a view to the reduction of fees, have power to suspend this provision for a period not exceeding five years, and so on for successive like periods; and clause 81 transfers the power of regulating solicitors' remuneration as regards registered land from the Lord Chancellor and the committee appointed under section 22 (2) of the Act of 1897 to the committee appointed under section 2 of the Solicitors Remuneration Act, 1881, with the addition of the Land Registrar; though we do not notice that section 111 (4) of the Act of 1875 is repealed, as apparently it should be. The change will give the claims of solicitors a better chance of being recognized. Of course, the real work in connection with registration—apart from the initial examination of title—will always fall on them, and the substantial remuneration should go to them. The work of the Registry, when its functions have been properly defined, will be comparatively slight.

The distinction between the major amendments incorporated in the clauses of the Bill, and the minor amendments which are relegated to Schedule V., appears to be somewhat abitrary. Section 49 of the Act of 1875 has been very prominent in recent discussions of registration, and it is now to be repealed, and a long section with nine sub-sections substituted for it; but this is only to be discovered by examination of the Schedule. Doubtless the draftsmen had their reasons for this arrangement, and we only draw attention to it in order to point out that it is just as necessary to study the amendments in the Schedule as those incorporated in the body of the Bill. Section 49, it will be remembered, enables estates and interests to be created off the register, the only restriction being that the estate of the registered proprietor must be maintained. The section was discussed in *Capital and Counties Bank* v. *Rhodes* (1903, 1 Ch. 631, C.A.), and it was made clear that the legal estate could be freely conveyed off the register, though a transfer for value by the registered proprietor would at once bring it back to the register. The provisions which it is proposed to substitute for section 49 are contained in Schedule V., Part I., paragraph 14, and their general effect appears to be as follows:—Any person, whether the registered proprietor or not, having a sufficient interest in the land, may deal with it in the same way as if the land was not registered; but this is subject to the qualification that interests created by such dispositions shall be minor interests and shall take effect only in equity, and they can be overreached by registered dispositions for values; but they can be protected by notices, cautions, or inhibitions. The amendment is in accordance with what we have stated to be the true theory of registration. It keeps the legal estate in the registered proprietor, where alone it can, in reason, lie, and it overrides, with some slight exceptions, *Capital and Counties Bank* v. *Rhodes*, a decision which never should have been possible.

The annexation of restrictive covenants to registered land has been one of the difficulties of the existing system of registration. It has depended on section 84 of the Act of 1875, as amended by Schedule I. to the Act of 1897. This section is now to be repealed, and a substituted provision is contained in Schedule V., Part I., paragraph 23. It should be noticed, also, that clause 53 in Part IV. of the Real Property Bill gives the court power to modify or discharge restrictive covenants which have become obsolete or unnecessary. It is now proposed that any person entitled to the benefit of a restrictive covenant affecting registered land shall be entitled to enter notice of it on the register, and, where practicable, the notice will be by reference to the instrument creating the restriction, and a copy or abstract will be filed at the registry. The entry will operate as notice to the registered proprietor and his successors in title. If the restriction is discharged under Part IV. of the Act, the entry will be cancelled.

Paragraph 27 in Schedule V., Part I., extends the list of matters in section 111 of the Act of 1875 with respect to which rules may be made. The first addition is noteworthy: Rules may be made:—

> (a) For making such adaptations as changes in the general law may render expedient, with a view to the practice under the Acts being from time to time adapted, so far as expedient, to the practice in force in regard to unregistered land.

This is in accordance with the policy of the Bills to assimilate, as far as possible, conveyancing practice on and off the register. Other clauses allow rules to be made for clearing the title on suitable occasions, and for giving notice on land certificates of the general effect of registration. The Royal Commission recommended that certificates for possessory title should be different in colour from those of absolute title, and should "bear on the face a clear warning as to their nature" (Recommendation 24). The implication, apparently, is that the public should be warned not to rely too much on registration—a very proper precaution. The Bill leaves this recommendation to be carried into effect by rules.

Summary.—Taking the amended system as a whole, we imagine that it will be more efficient than the existing system of registration, by which we mean that the registered proprietor will have greater power of dealing with the land and will in general have the legal estate vested in him. The cases where the legal estate can be separated from the registered proprietorship are, we assume, departures from correct principle, and are only admitted on grounds of practical necessity. As we have already stated, we do not think that they should be admitted at all.

But while the system may, from the point of view of the registered proprietor, become more efficient, we doubt whether the changes really tend towards simplicity, and the successive attempts at reform do not encourage the expectation that registration of title will ever attain to such simplicity in working as to justify its existence. It will remain a system theoretically attractive, but practically inconvenient and burdensome. This might be altered if the register was reduced to a mere register of proprietorship, but the present Bills make no step in this direction, except so far as it is involved in the provision that the legal estate must be either the fee simple or a term of years. This provision, common alike to registered and unregistered land, enables the practice as to settlements to be simplified, and there the register will gain as well as private conveyancing. But, as regards mortgages, the Real Property Bill misses the improvement which the Commission recommended, and introduces a quite needless array of modes of mortgaging registered land. And the benefit of the indemnity fund is not extended so as to get rid of *Attorney-General* v. *Odell* (1906, 2 Ch. 47, C.A.). We may say that we have hitherto failed to solve the puzzle presented by Schedule V., Part I., paragraph 4, to which we referred in a former article (*ante*, p. 64).

It is, perhaps, unfortunate that the Conveyancing Bill and the registration portion of the Real Property Bill should have been put forward together. The Conveyancing Bill furnishes quite sufficient matter for consideration without having the amendment of registration to deal with at the same time. As we have already said, the scheme of the Conveyancing Bill is likely to effect a fundamental simplification in private conveyancing, and it would have been better to put this scheme in practice before registration was touched. It would have been easier then to consider what the future of registration should be. The scheme of registration now proposed does not promise any finality, and a change now simply means further changes a few years hence. It is needless, however, to forecast what the fate of the Bills will be in the coming session. One thing is clear: the amendments to the Land Transfer Acts should not be allowed to come into operation until a Consolidating Act has been passed.

CASES OF LAST SITTINGS.

House of Lords.

PLUMB (Pauper) v. COBDEN FLOUR MILLS CO. 30th and 31st Oct.; 9th Dec.

WORKMEN'S COMPENSATION ACT, 1906 (6 EDW. 7, c. 58), s. 1—ACCIDENT ARISING IN COURSE OF EMPLOYMENT, BUT DUE TO UNWISE AND DANGEROUS ACT—ACT NOT DONE FOR WORKMAN'S BUT FOR EMPLOYER'S BENEFIT—LIABILITY OF EMPLOYER.

A workman employed to perform work which consisted in stacking sacks by manual labour, devised a means of expediting the work and saving time, which involved making an unauthorised use of motive power. This mode of doing the work was unknown to the employers, or it would have been stopped, as involving the probability of an accident.

Held, affirming decision of Court of Appeal (57 SOLICITORS' JOURNAL, 264; 6 *B.W.C.C.*, 245) *that the workman was acting outside the scope of his employment, and the employers were not liable.*

Semble, *if the accident had proved fatal, the employers would have been liable.*

Appeal by the workman. Counsel for the respondents not heard.

THE HOUSE, having taken time for consideration, dismissed the appeal.

Lord DUNEDIN, whose judgment was concurred in by Lord Haldane, C., and Lords Kinnear and Atkinson, said he had not the slightest doubt as to the soundness of the judgment appealed from. The appellant was a foreman in the employ of the respondents, and his duties on the day on which he was injured consisted in the task, assisted by other workmen, of stacking bundles of sacks in a room in the respondents' premises. The work was done by hand. In this room there ran along the ceiling a shaft which transmitted power to machines in other rooms; but there were no pulleys on the shaft in this room, and it was not used in connection with any machine in that room. The stack had reached the height of about 7ft., and the bundles could not longer be thrown up from the bottom. The appellant improvised this method of getting up the sacks. He put a rope round the revolving shafting, attached one end to the bundle, and, sufficient tension being put on the end of the rope to ensure friction, the sack was drawn up as by a crane. A bundle of sacks was drawn up too far, and stuck between the shafting and the ceiling. The appellant, to free the bundle, cut the rope. The bundle fell, and, falling on the bundle on which the appellant was standing, caused him to lose his balance. In his effort to recover equilibrium one arm got entangled with the rope which was round the shafting, he was pulled over the shafting, and severely injured. The question for decision was: "Did the accident arise out of his employment?" The Court of Appeal held that it did not, and he agreed with them. In his opinion, the appeal failed not because the workman was acting outside the sphere of his employment, nor because by his conduct he brought on himself a new and added peril, but because he had failed to show ny circumstances which could justify a finding that the accident to him arose "out of his employment." The appeal was therefore dismissed. COUNSEL, for the workman, *H. C. Davenport* and *T. H. Parry*; for the employers, *Scott-Fox*, K.C., and *Kingsley Chappell*. SOLICITORS, *Hurford & Taylor*, for *J. B. Marston*, Wrexham; *Pritchard, Englefield & Co.*, for *J. H. Glover*, Liverpool.

[Reported by ERSKINE REID, Barrister-at-Law.]

Court of Appeal.

DAVIES AND OTHERS v. GLAMORGAN COAL CO. No. 2. 3rd and 4th Dec.

MINES—MINIMUM WAGE—METHOD OF ASCERTAINING ACTUAL DAILY EARNINGS OF WORKMEN—POWER OF JOINT DISTRICT BOARD TO MAKE REGULATIONS "WITH RESPECT TO REGULARITY AND EFFICIENCY OF THE WORK"—INVALIDITY OF RULE AS TO CALCULATING "MINIMUM WAGE" PAY—COAL MINES (MINIMUM WAGES) ACT, 1912 (2 GEO. 5, c. 2) s. 1 (2).

By the Coal Mines (Minimum Wage) Act, 1912, *s.* 1 (2), "*the rules authorised to be made by a Joint District Board shall lay down conditions. . . . with respect to the regularity and efficiency of the work to be performed by the workmen.*" *A Joint District Board appointed under the Act to make rules for the collieries in South Wales, including Monmouthshire, of which Lord St. Aldwyn was chairman, made a rule that* "*in ascertaining whether the minimum wage had been earned by any workman on piece-work, the total earnings during two consecutive weeks shall be divided by the number of shifts he has worked during such two weeks.*"

Held that such rule was ultra vires *and void.*

Per VAUGHAN WILLIAMS, L.J., *the question how the minimum wage should be calculated must be decided either in an action raising that question for the decision of the court, or by agreement between the workmen and mine owners in a district, or by arbitration.*

The same Joint Board made another rule, "*that if a workman, from circumstances over which he had no control, was unable to perform sufficient work to earn a minimum wage, he must at once give notice of that fact to the official in charge of the district, and in default of such notice should forfeit his right to a minimum wage for that pay.*"

Held, that the rule, being with respect to the regularity and efficiency of the work to be performed by the workman, was intra vires.

Decision of Pickford, J. (1913, 3 *K. B.* 222, 29 *T. L. R.* 612) *affirmed on both points.*

Appeal by the company against an order of Pickford, J., as to the validity of certain rules made under powers given to the Joint District Board by the Coal Mines (Minimum Wage) Act, 1912. Under that Act Viscount St. Aldwyn, as chairman of the Joint District Board for South Wales, by his award of the 5th July, 1912, fixed the minimum rate of piece-work per day at 7s. 1½d., plus a certain percentage varying with the price of coal, and certain rules were settled, two of which were the subject of these proceedings. One of them, Rule 7, provided that in ascertaining the minimum wage which had been earned by any workman on piece-work, the total earnings during two consecutive weeks should be divided by the number of shifts, or parts of shifts, he had worked during such two weeks. The other rule, Rule 5, provided that if a collier failed to earn the minimum wage, he must at once give notice of that fact to the official in charge. The action was brought for a declaration that these two rules were *ultra vires*, the colliers claiming that they were entitled to be paid as a minimum wage not less than 7s. 1½d. for each day they respectively worked during the "pay" or period in respect of which such wages were payable, and not merely to have the pay averaged up to a sum representing 7s. 1½d. a day. For instance, suppose a miner in a week ending, say, 7th September, had earned 8s. 9d. each day, and the next week 5s. 10d., the contention of the plaintiffs, who represented the colliers employed at the Llwynpia Colliery, owned by the Glamorgan Coal Co., was that they were entitled in respect of the latter week to an addition to their actual earnings of 1s. 3½d. a day in order to bring each day's wage up to 7s. 1½d., and that without bringing into account the excess over minimum they had earned in the preceding week. If the rule stood they would lose this, as the daily earnings averaged over the two weeks would be 7s. 3½d. Pickford, J., held that Rule 5 was within and Rule 7 without the powers given by the Act to the Board to make regulations. The employers appealed as to Rule 7, the colliers as to Rule 5. The employers desired an affirmative declaration as to what period in the "pay" should be taken as the period to be averaged in ascertaining the man's earnings for deciding his minimum wage deficiency, if any. The appeal having been fully argued on this point,

THE COURT (VAUGHAN WILLIAMS, BUCKLEY and KENNEDY, L.JJ.) declined to say whether a miner was entitled under the Act to be paid a minimum on each day's work or only some agreed period. That was a point of law which they were not called upon to decide on this appeal, the substantial question before the court being merely whether Pickford, J., was right in holding that the chairman of the Board had no power to make a rule deciding that fourteen days (or *semble* any period) was the period to be averaged. They were of opinion that Pickford, J., was right, and therefore the appeal failed. They also upheld his decision as to Rule 5.

In the result VAUGHAN WILLIAMS, L.J., said that the order substituted for the order appealed from would be the following: "This court, without expressing any opinion as to how the rate was to be ascertained, expresses the opinion that the District Board had not, under the Act, power to determine over what period the actual earnings of the workman should be taken for the purposes of determining the rate of such earnings and adding the additional sum, if any, below the minimum rate; declare Rule 7 to be *ultra vires*; declare the disputed portions in Rule 5 to be *intra vires*." His lordship added there would be no costs of the appeal, but the cross-appeal would be dismissed, with costs.—COUNSEL for the company, *Leslie Scott*, K.C., and *Harold Morris*; for the miners, *Sankey, K.C.*, *R. Vaughan Williams*, K.C., and *R. Sutton*. SOLICITORS, *Bell, Brodrick & Gray*, for *C. & W. Kenshole*, Aberdare; *Smith, Rundell & Dodd*, for *Morgan, Bruce & Co*, Pontypridd.

[Reported by ERSKINE REID, Barrister-at-Law.]

Re **SCHWEPPES (LIM.).** No. 1. 16th Dec.

COMPANY—INCREASE OF SHARE CAPITAL—SCHEME OF ARRANGEMENT—NO MODIFICATION OF MEMORANDUM OF ASSOCIATION—"CONSOLIDATION OR DIVISION OF SHARES"—COMPANIES (CONSOLIDATION) ACT, 1908 (8 ED. 7, C. 69), SS. 45 AND 120.

A company with a capital divided into preferred, ordinary, and deferred shares proposed to increase its capital by an issue of ordinary shares, to rank pari passu *with the existing ordinary shares. The scheme was sanctioned under section* 120 *of the Companies (Consolidation) Act*, 1908, *but not by a majority sufficient to satisfy section* 45.

Held (reversing Astbury, J.), *that the proposed scheme ought to be sanctioned, as not involving any modification of the company's memorandum of association. Section* 45 *of the Act is limited to the two cases of reorganisation by consolidation and division of shares of different classes.*

Re Palace Hotel (Limited) (1912, 2 *Ch.* 438) *followed.*

Re Doecham Gloves (Limited) (1913, 1 *Ch.* 226) *overruled.*

Appeal from a decision of Astbury, J. (reported 58 SOLICITORS' JOURNAL, 139), refusing to sanction a scheme proposed on a petition presented by the company. The company was incorporated in 1897 with a capital of £950,000, divided into 300,000 preferred, 300,000 ordinary, and 350,000 deferred shares, all of the nominal value of £1. Clause 5 of the articles of association empowered the company, on any increase of capital, to issue shares with any preferential rights and privileges, but not so as to prejudice the preferential rights already attached to the preference and ordinary shares in the original capital. The articles provided that a cumulative preferential dividend of 7 per cent. should be paid to each of the three classes of shareholders in succession, the remainder of the profits being divisible, as to one-fourth among the ordinary, and as to the remaining three-fourths among the deferred shareholders. The company was in a prosperous condition, but required more working capital, and accordingly proposed, as a scheme of arrangement between themselves and their ordinary shareholders within section 120 of the Companies (Consolidation) Act, 1908, to issue 100,000 new £1 ordinary shares, to rank *pari passu* with the existing ordinary shares. In accordance with an order of the court, a meeting of ordinary shareholders was held on the 24th of June, 1913, and approved the scheme by a majority sufficient to satisfy section 120. On the hearing of the petition, however, Astbury, J., following the decision of Neville, J., in *Re Doecham Gloves (Limited)* (1913, 1 Ch. 226), in preference to that of Swinfen Eady, J., in *Re Palace Hotel (Limited)* (1912, 2 Ch. 438), declined to sanction the scheme on the ground that it had not been approved by a majority sufficient to satisfy section 45, which provides that a company may, by special resolution confirmed by an order of the court, modify the conditions of its memorandum, "so as to reorganise its share capital, whether by the consolidation of shares of different classes, or the division of its shares into shares of different classes," but no special preference or privilege of any class of shares is to be interfered with except by a resolution passed by a majority in number of the shareholders holding three-fourths of the share capital of that class. The company, which still had to obtain the sanction of the shareholders to a resolution to increase the share capital under section 41, appealed.

THE COURT allowed the appeal.

COZENS-HARDY, M.R., said that the appeal raised the question whether the scheme of arrangement proposed to be sanctioned came under section 45 on the ground that it effected a modification in the memorandum of association. But the point was whether the scheme did in any way interfere with the memorandum. His lordship stated the facts, and read clause 5 of the articles, and proceeded: Now, what was proposed to be done was to increase the ordinary capital. There could be no preference as between the members holding the same class of shares. His lordship thought the proposal did not involve any interference with the memorandum. But, assuming for the moment that it did, was it an arrangement within section 120, or was it something which fell within section 45? The latter section conferred a new power, first introduced in 1907. His lordship, having read the section, proceeded: The meaning of that was that unless the case could be brought within one or other of the two heads—consolidation or division of shares—to which section 45 was limited, it was outside the section altogether. It was said, however, that the case fell within the proviso of the section requiring the consent of a majority of the shareholders of the class affected, holding three-fourths of the share capital of that class. That, however, was simply an extra safeguard, not an independent enactment, and could not increase the scope of the section. In his opinion the decision in *Re Palace Hotel (Limited)* (*supra*) was right, and that in *Re Doecham Gloves (Limited)* (*supra*) was wrong; therefore, with great respect to the learned judge below, his decision must be reversed, and the appeal allowed.

SWINFEN EADY, L.J., who remarked that the words "in number" after "majority" in section 45 were first introduced in 1908, delivered judgment to the same effect.

PHILLIMORE, L.J., concurred.—COUNSEL, *Younger*, K.C., and *H. E. Wright*. SOLICITORS, *Leonard & Pilditch*.

[Reported by H. LANGFORD LEWIS, Barrister-at-Law.]

High Court—Chancery Division.

Re **EMMA GREEN (Deceased).** **BATH** *v.* **CANNON.** Sargant, J. 7th Nov.

WILL—CONSTRUCTION—APPOINTMENT BY TESTATRIX OF "MY NEPHEWS" A, B, AND C AS TRUSTEES—B AND C NEPHEWS BY AFFINITY ONLY—A NEPHEW BY CONSANGUINITY—GIFT OF RESIDUE TO "MY NEPHEWS AND NIECES"—ONLY NEPHEWS BY CONSANGUINITY TAKE—B AND C NOT INCLUDED IN THE CLASS TO TAKE.

The use of the word "nephews" by a testatrix in appointing three trustees nominatim, one of whom was her own nephew, and the other two her husband's nephews, is not a sufficient indication of the testatrix's intention to include in the class of "my nephews and nieces" to take her residue, her husband's nephews and nieces, and is not even effectual to extend the class so as to include her husband's two nephews who are named as trustees, and described by the testatrix as "my nephews."

This was a summons to determine the class to take under a gift in the will of Emma Green, dated the 10th of March, 1902. The question raised was whether, taking into account the fact that the testatrix appointed "my nephews Albert Bath, Richard Haines Little, and William Henry Haines" to be her executors, when in fact Richard Haines Little and William Henry Haines were nephews of the first husband of the testatrix, while Albert Bath was a son of her brother, she had in her residuary gift to "my nephews and nieces" effectually included all her husband's nephews and nieces in the class of nephews and nieces, or alternatively the said Richard Haines Little and William Henry Haines, to whom she specifically alluded as my nephews. The facts and the arguments of counsel are crystallized in the judgment.

SARGANT, J.—This is a very short point, but one over which I feel very considerable difficulty. The testatrix says by her will, "I appoint my nephews, Albert Bath, Richard Haines Little, and William Henry Haines (hereinafter called 'my trustees') to be executors and trustees of this my will," and then she devises her residue to her trustees on trust for sale and conversion, and to divide the proceeds of sale after payment of her funeral and testamentary expenses "equally between my nephews and nieces living at the date of my decease, and the children then living of my nephews and nieces who shall have predeceased me." The question is whether the gift of residue is a gift to real nephews and nieces of the testatrix only, or if it includes nephews and nieces of the testatrix's husband. It is quite clear that, apart from the words appointing the three trustees, this residuary gift could not be extended to include nephews and nieces of the testatrix's husband. But it is the fact that, of the three persons appointed executors and trustees of the will, and described by the testatrix as "my nephews," the last two were not nephews of the testatrix, but were nephews of her husband, and it is argued from this that, inasmuch as the word nephew is used in a popular and less accurate sense in this clause appointing executors and trustees, it must be taken to be used in the same sense in the residuary clause, and that extended sense must also be given to the word "nieces" in the residuary clause; that is, so as to include in the gift all the nephews and nieces of the testatrix's husband; and it is also urged as an alternative argument by Mr. Kerly that even if all these nephews and nieces of the husband cannot be included, at least those two must be included who are specifically referred to by the testatrix by name, and are described by her as her nephews. There is a vast amount of authority on the subject, if I am allowed to look at authority, but Mr. Hodge says I am not, and he relies in support of this contention on the oft-quoted words of Lord Halsbury, in the Court of Appeal, in *Re Jodrell* (44 Ch. Div. 590), but I shall certainly look at the cases for my guidance. Now, the cases of *Smith* v. *Liddiard* (3 K. & J. 252) and *Wells* v. *Wells* (1874, 18 Eq. 504) would be decisions against the larger construction, apart from the point which is contended in this case—not for the first time—that *Re Jodrell* (*ubi supra*) amounts to a negation of all authority. It is admitted

that a testator can form in his own will a dictionary for himself, where the will itself shews in what sense he meant to use particular words; but I am not prepared to go so far as to say that a single use of a word in an unusual or improper sense in one clause of a will involves the necessity of saying that it is used with that meaning throughout the instrument. The word "nephew" is used with complete accuracy with reference to the first of the three named trustees, for instance, in this very will which we are considering. It may be that that in itself prevents the word being interpreted so rigidly as would otherwise be the case. On the other hand, it may be that the coupling together of the three names might be taken by some to have quite the contrary effect. But, on the whole, there does not seem to me to be quite enough in this will to cause me to attribute precisely the same extended meaning to the words "nephews and nieces" when determining who are the class to share in the gift of residue, which appears to attach to the word "nephews" in the clause appointing trustees. That disposes of the question as between Mr. Ramsbotham and Mr. Hodge. Now, Mr. Kerly contends that, at any rate, Mr. Little and Mr. Haynes must be included in the class, because they have been referred to by the testatrix in terms as "my nephews." I feel the same difficulty. I do not think the judgment of Vice-Chancellor Shadwell in *James* v. *Smith* (14 Sim. 214) prevents me from experiencing the same difficulty that Vice-Chancellor Malins experienced in deciding the case of *Merrill* v. *Morton* (1881, 17 Ch. Div. 382). I feel unable to admit these two persons into the class of nephews and nieces, for I feel it would be a still greater anomaly to extend the class to include these two nephews, and yet to exclude all the others in exactly the same relationship to the testatrix. If I unlock the first door, I must perforce go on and unlock the second door, and as I cannot take the latter step, I feel I must not take the first step. I have been much assisted in arriving at this decision by the cases of *Smith* v. *Liddiard* and *Wells* v. *Wells* (*ubi supra*). I accordingly declare that the class to share in the residue consists only of the testatrix's true nephews.—COUNSEL, *W. H. Draper; R. L. Ramsbotham; R. H. Hodge; D. M. Kerly.* SOLICITOR, *R. H. Bentley*, for *Thos. G. Baynes*, Dartford, for all parties.

[Reported by L. M. MAY, Barrister-at-Law.]

High Court—King's Bench Division.

WALTERS *v.* **W. H. SMITH & SONS (LIM.).** Isaacs, C.J. 29th and 30th Oct.; 8th Nov.; 3rd Dec.

FALSE IMPRISONMENT—ACTION FOR—DEFENCE—ARREST BY PRIVATE INDIVIDUAL WITHOUT WARRANT—FELONY NOT COMMITTED BY PLAINTIFF—OTHER FELONIES COMMITTED BY SOME OTHER PERSON—REASONABLE AND PROBABLE CAUSE.

The plaintiff sued the defendants for damages for false imprisonment. The plaintiff was given into custody by the defendants on a charge of stealing a book, of which charge he was subsequently acquitted. At the trial the jury found as a fact that the defendants reasonably believed that the plaintiff had been guilty of other thefts from the defendants.

Held, that as the felony for which the defendants gave the plaintiff into custody had not in fact been committed, the basis upon which they could rest any defence of lawful excuse for the wrongful arrest of another failed.

This was the further consideration of an action brought by the plaintiff to recover damages from the defendants for false imprisonment and malicious prosecution. The defendants gave the plaintiff into custody for stealing a book. At the time of the arrest the defendants thought that the person who stole the particular book was guilty of certain other thefts, but they caused the plaintiff's arrest because they thought they had clear evidence of his having stolen the particular book. They might have been influenced by a suspicion that the plaintiff had been guilty of the other thefts. The plaintiff was committed for trial and acquitted of the charge of stealing the book, the defence at the trial being that he had no felonious intent. At the trial of the action the following questions were left to the jury, and answered as stated:—(1) Did the defendants take reasonable care to inform themselves of the true facts of the case?—Yes. (2a) Did the defendants honestly believe that the plaintiff had stolen the book?—Yes. (2b) Did the defendants reasonably believe that the plaintiff had stolen moneys and stock (other than the book) from the bookstall?—Yes. (3) Were the defendants, by instituting the criminal proceedings, actuated by malice?—No. (4) What damages for false imprisonment?—£75.

ISAACS, C.J., ruled that there was not an absence of reasonable and probable cause for the prosecution, on which point the defendants succeeded, but that left the question of false imprisonment, having regard to the jury's answer to question (2b).

It was argued on behalf of the plaintiff that, as no felony had in fact been committed with respect to the particular book, the claim, so far as it was based on false imprisonment, succeeded. It was contended on behalf of the defendants that in order to succeed they merely had to establish that an actual felony or felonies had been committed, and that they had reasonable and probable cause for suspecting that the plaintiff had committed an actual felony or felonies. It was not disputed that a felony or felonies had been committed.

ISAACS, C.J., in the course of his judgment, said he must hold that, as the felony for which the defendants gave the plaintiff into custody had not in fact been committed, the basis upon which they could rest any defence of lawful excuse for the wrongful arrest of another failed. He was satisfied that the defendants acted with perfect *bona fides* in the matter, and were genuinely convinced, after inquiry, that they had discovered the perpetrator of the crime; but they were wrong, and it could not be established that the crime had been committed in respect of which they gave the plaintiff into custody. In law, they had failed to justify the arrest, and there would be judgment for the plaintiff for £75 and costs, except such costs as were attributable to the issue of malicious prosecution.—COUNSEL, *St. John Hutchinson; Clavell Salter*, K.C., and *Doldy*. SOLICITORS, *Ricketts & Sons; Birchams.*

[Reported by LEONARD C. THOMAS, Barrister-at-Law.]

Societies.

The General Council of the Bar.

The annual statement for 1913, issued recently, contains the following memorandum on the matter of fees of counsel, which was adopted at the meeting of the Council held on the 10th of June, 1913:—

In November, 1912, the Law Society requested the Council to receive a deputation from the society with reference to the question of fees to counsel, and the Bar Council, anxious to co-operate with the Law Society upon any matters in which counsel and solicitors are interested, authorised a committee to meet the representatives of the Law Society. Accordingly, on the 13th of December, 1912, a meeting took place, when the following resolution, adopted by the Council of the Law Society, and dated the 8th of November, 1912, was brought to the attention of the committee:—

"The committee recommend that steps be taken with a view to obtaining the recognition of the principle that where a leader accepts a brief marked with a special fee in addition to the brief fee, such special fee shall not be taken into consideration in determining the appropriate brief fees payable to the other counsel. The words 'special fee' in this resolution are used as not only denoting the special fee which certain counsel demand in addition to their brief fee in any action or for going into any particular court or for attending their own or other circuit, &c., but also as meaning any addition to the brief fee that would ordinarily be marked having regard to the importance of the case."

It is to be observed that this resolution does not purport to object to the application in all ordinary cases of the existing practice of the profession regarding the proportion which the fee of the junior counsel should bear to the fee of the leading counsel in a case in which they are jointly appearing. Upwards of twelve years ago this practice was after careful inquiry formulated in the following terms, which have since been continuously acted upon, and on the whole it is believed without friction:—

"That by long-established and well-settled custom a junior is entitled to a fee of from three-fifths to two-thirds of his leader's fee, and that, although there is no rigid rule of professional etiquette which prevents him from accepting a brief marked with a fee bearing a less proportion to his leader's fee, it is in accordance with the practice of the profession that he should refuse to do so in the absence of special circumstances affecting the particular case, and that he should be supported by his leader in such action."

At the meeting on the 13th of December, 1912, however, it was suggested by the representatives of the Law Society that there were cases in which the leading counsel were in a position to, and did in fact, demand fees which were described as "fancy" or "excessive" fees, and that in such cases it was not right that junior counsel should receive the recognised proportion of two-thirds or three-fifths, but only such a fee as they would otherwise have been satisfied with had a leader been briefed who did not demand such so-called "fancy" or "excessive" fees. The representatives of the Law Society urged that, by reason of having to pay the recognised proportion of fees to junior counsel in such cases, litigants were deterred from litigation, and it was even stated that, if the Bar insisted on maintaining the present position, litigation would be killed. The representatives of the Law Society particularly insisted that the application of the rule was indefensible where briefs had been accepted by a leader and junior, and subsequently a third counsel requiring a so-called "fancy" or "excessive" fee was briefed with them.

The Council have had under careful consideration the above-mentioned resolution, and the statements made by the representatives of

the Law Society. The Council desire, in the first place, again to point out that the complaint of the Law Society is not against the application of the two-thirds rule generally; and that it is apparently not disputed that this long-established rule has in ordinary cases worked satisfactorily. Nor does the Law Society complain of the so-called "fancy" or "excessive" fees asked by leaders. The real allegation is that certain leaders are in the habit of asking and receiving larger fees than other leaders; and it is contended that in such cases the two-thirds rule should not be applied to the junior, who should receive only such lesser fee as would have been marked if a leader had been retained who had not required so large a fee. As it is entirely at the option of the solicitor and his client to employ a leader who requires a so-called "fancy" or "excesive" fee, the cost of paying a proportionate fee to the junior, so far as its increase over his ordinary fee is concerned, is and ought to be regarded as a necessary incident in the cost of briefing such exceptional leader; and the Council think that the client should be informed of this fact (as no doubt he is) when the increased cost of employing such a leader is being considered by him. It is obvious that if the present two-thirds rule were abrogated, there would in the result be a strong tendency to increase still further the fee of the leader at the expense of the fee of the junior—a change which would be of no benefit to the public. The Council further desire to point out that the cases in which such exceptional leader is retained are cases which involve questions of exceptional difficulty and importance (and, moreover, are often cases in which two leaders from within the Bar are employed), and that the grievance alleged by the Law Society is necessarily confined within narrow limits. At no time, and certainly not at the present time, has there been any considerable number of exceptional counsel to whose employment the questions raised by the Law Society relate. It is to be borne in mind that neither the Law Society nor the Council desire to cast the smallest reflection upon a leader requiring the payment of an exceptionally large fee. The remedy (if any is needed) is in the hands of the solicitor and his client. It is to be recollected that the taking of special fees of fixed and uniform amount, which are not brought into account when calculating the proportion of the fee of the junior, has for a long time past been recognised by the practice of the profession. For instance, such special fees are required in the Chancery Division of the High Court by certain King's counsel unattached to the court of any particular judge of the Chancery Division. At the common law bar special fees to be taken by members of one circuit accepting briefs on other circuits, of which they are not members, are fixed at a uniform amount by the rules of the circuits.

Questions relating to the payment of special fees have been before the Council on several occasions, and have from time to time received their careful consideration. All rules laid down by the Council with regard to these special fees have had as one of their main objects the prevention of the infringement of the established practice with regard to the proportion of counsel's fees; for it will be readily understood that if solicitors and leaders could vary the amount of the special fee as and when they pleased, and in what cases they pleased, the established practice as to two-thirds or three-fifths would soon become a dead letter. It is for this reason that it has been laid down by various resolutions of the Council that it is against professional etiquette for a barrister to fix either a fancy special fee on a particular brief, or a fancy special fee for going into a particular court; but a barrister may charge a uniform special fee for going into a particular class of court, or a uniform special fee for going into court at all. The Council do not understand that the Law Society's complaint applies to the practice of the profession in regard to these special fees. The Council are of opinion that it is most desirable in the interest of the public, as well as in the interest of both branches of the profession, that the relationship between the fees payable to counsel engaged for the same client should continue to be governed by the present well-understood rule. The real question before the Council has been whether it is possible to give a definition of the special circumstances in which the rule need not be followed; this, in the opinion of the Council, is not practicable. The Council, however, are of opinion that in cases where two leaders within the Bar are briefed, that fact is a special circumstance entitling the second leader and the junior to accept, if they think fit so to do, fees which do not bear the accustomed proportion to that of the first leader, so long as the fees they accept are of such an amount as would ordinarily be marked having regard to the importance of the case, and as between themselves bear the accustomed proportion. The Council desire to point out that, if in any other case the parties are unable to agree as to whether there are special circumstances, it is always competent for them to submit the matter to the joint decision of the chairman of the Council and the president of the Law Society.

The above memorandum was sent to the Law Society on the 13th of June, 1913, and in reply the following letter was received from the Law Society:—"Law Society's Hall, Chancery-lane, the 23rd of June, 1913.—My dear Sir,—The Council have had an opportunity of considering the memorandum prepared by the Bar Council on the subject of fees to counsel, adopted on the 10th of June. They desire me to say that they will be greatly obliged if the Bar Council will favour them with an opportunity of again conferring with them by deputation. Perhaps you will kindly let me know as soon as possible the time which will be convenient to the Bar Council for the purpose. With regard to the terms 'fancy or excessive fees' used in the memorandum, I am desired to point out that the Council do not wish it to be understood that these terms correctly express the Council's views with regard to the matter. They prefer to use the term 'extraordinary,' and as meaning 'fees different from the fees ordinarily marked having regard to the importance of the case.'—Yours very truly, S. P. B. Bucknill, Secretary. H. C. A. Bingley, Esq., General Council of the Bar, 2, Hare-court, Temple."

A further conference was arranged for the 3rd of July, but owing to unavoidable circumstances this had to be postponed *sine die*, and so far no further communications upon the matter have passed between the Council and the Society.

London Quarter Sessions.

The *Gazette* of the 30th of December announces that the Home Secretary has approved a scheme of the London County Council for regulating the holding of Courts of Quarter Sessions for the County of London, as provided by section 42 (7) of the Local Government Act, 1888.

It is provided that the provisions of the Act 11 Geo. IV., and 1 Will. IV., cap. 70, as to the times for holding quarter sessions shall not apply to the county of London. Quarter sessions will be held at Clerkenwell for business arising on the north as well as on the south side of the Thames in January, April, July, and October in every year, and the first sessions held in each of those months will be general quarter sessions. Adjourned quarter sessions will be held at Clerkenwell for the same business in each of these months, and in all the other months of the year at intervals of not less than two weeks or more than three weeks after the beginning of each preceding quarter sessions or adjourned quarter sessions. In November every year the clerk of the peace will prepare a list shewing the days to be fixed for the sessions to be held during the ensuing year. In this list special days will be appointed for hearing appeals. It will be the duty of the justices to take the steps necessary to secure that there shall be as many courts sitting at the same time as may be required for the discharge of the business with proper expedition. For this purpose, in addition to the courts presided over by the chairman and the deputy-chairman, there may be, on the direction of the London County Council, with the approval of the Secretary of State, a third court, and, if necessary, a fourth court, each to be presided over by one of the justices. A committal for trial or recognizance will not be invalidated, nor will the power of the sessions be affected by any disregard of the provisions of this scheme, as to the place or time of trial.

At every adjourned January quarter sessions sittings of the court will be fixed to hear appeals under the Valuation (Metropolis) Act, 1869. Such sittings are to begin not earlier than the 1st of February then next ensuing, and to be so arranged as to enable the court to determine all appeals (except where a valuation list or valuation is ordered) before the ensuing 31st of March. Appeals may be heard at any place authorized for the time being for holding quarter sessions for the county of London, or in the City of London, or at one or both of such places. This scheme came into operation on the 1st inst., and will continue in force until the 31st of December, 1914, unless otherwise determined.

Legal News.

Appointments.

Mr. Llewelyn Archer Atherley-Jones, K.C., has been appointed to be a judge of the City of London Court, in the place of his honour Judge Lumley Smith, who has retired. Mr. Atherley-Jones was born in 1851, and was educated at Brasenose College, Oxford. He was called to the Bar at the Inner Temple in 1875, and joined the North-Eastern Circuit. He has represented North-West Durham as a Radical since 1885. In 1905 he was appointed Recorder of Newcastle.

Mr. William Rowley Elliston has been appointed to be Recorder of Great Yarmouth, in place of the late Mr. H. H. Lawless. Mr. Elliston was called to the Bar at Lincoln's-inn in 1893, and belongs to the South-Eastern Circuit.

Mr. Charles Edward Lamb, solicitor and notary public, of the firm of Messrs. Lamb & Stringer, of Kettering, whose appointment as Clerk to the Justices of Kettering Petty Sessional Division was recently announced, has also been appointed Clerk to the Justices of the Little Bowden Petty Sessional Division and Registrar of the Kettering County Court, in succession to Mr. Henry Wortley Lamb, who has resigned.

Changes of Partnership.

Admission.

Messrs. Welch & Co., of Pinners Hall, Austin-friars, London, E.C., have admitted into partnership Mr. Montague Burcher Clappé, LL.B., who has for some time past been associated with them in business. They will continue to practise under the firm name of Welch & Co. at the same address.

Dissolutions.

EDWARD HERBERT ANNING and WOLFF LEON GRONER, solicitors (Anning, Groner, & Co.), 78, Cheapside, London, E.C. Oct. 31. The said Edward Herbert Anning will continue to carry on business at 78, Cheapside aforesaid. [*Gazette*, Dec. 23.

REGINALD AUGUSTUS JACKSON and HENRY RICHARD PATTON BROOKE, solicitors (Jackson & Brooke), 12, Blomfield-street, in the city of London. Dec. 20. [*Gazette*, Dec. 26.

CHARLES WALTON SAWBRIDGE, THOMAS GEORGE KING, and JOHN CAMPBELL COOPER, solicitors (Charles Sawbridge & Son), 68, Aldermanbury, in the city of London. Dec. 31. The said Charles Walton Sawbridge and Thomas George King will continue to carry on business in partnership under the same style or firm of Charles Sawbridge & Son, at 68, Aldermanbury aforesaid, and the said John Campbell Cooper will carry on business at Dauntsey House, Frederick's-place, Old Jewry, E.C., under the style of John Campbell Cooper.

The partnership hitherto existing between Mr. EDGAR COHN and Mr. ALBERT M. COHN, solicitors (Albert & Edgar Cohn), 20, Great Winchester-street, London, E.C., has been dissolved by mutual consent as from Dec. 31. The said Albert M. Cohn will continue to practise and carry on the business of the late firm at the same address under the style of A. M. Cohn & Co.

Information Required.

Re Revd. ARTHUR THOMAS CHAPMAN, late Senior Fellow of Emmanuel College, Cambridge, who died on the 12th of December, 1913, at Cambridge. NOTICE.—Any person having the deceased's WILL, or knowing anything about the existence of one, is requested at once to communicate with Messrs. J. Nicholls & Son, of 12, Old Jewry-chambers, London, Solicitors for next-of-kin.

General.

Many notable legal names, says the *Globe*, are in the death roll of the past year. They include Lord Macnaghten, Lord Gorell, Lord Ashbourne, Lord Llandaff, Sir Ford North, Mr. Alfred Lyttelton, K.C., Sir Francis Maclean, Sir Albert de Rutzen, Sir Henry Curtis Bennett, Mr. R. H. Marsham, Sir W. W. Karslake, K.C., Mr. Montague Crackanthorpe, K.C., Judge Bradbury, Mr. Cyril Dodd, K.C., Professor Westlake, K.C., Mr. Alexander Glen, K.C., and Mr. Underdown, K.C. Among the members of the Junior Bar who have passed away are Mr. T. H. Henlé, Mr. A. D. Coleridge, Mr. Charles Haigh, Mr. H. H. Lawless, Mr. Edmund Lumley, and Mr. I. S. Leadam. Death has been busy, too, in the ranks of the other branch of the profession. Among the well-known solicitors to be numbered among the legal dead are Sir Richard Nicholson, Sir Charles Birt, Sir Robert Hunter, Mr. Robert Ellett, and Mr. F. H. Janson. The last-named practitioner—he continued to take out his practising certificate to the last—celebrated his centenary a month or two before his death.

An unusually large number of changes, says the *Globe*, have occurred in the personnel of the Bench during the past year. Lord Alverstone, whom illness kept away from the courts throughout the year, was succeeded in the Lord Chief Justiceship by Sir Rufus Isaacs, to whom belongs the distinction of being the first Jew to occupy the highest purely judicial office in the country. Upon the death of Lord Macnaghten, one of the greatest judges of modern times, Mr. Justice Parker, one of the youngest of the Equity judges, was appointed a Lord of Appeal, and Mr. Justice Sargant filled the vacant place in the Chancery Courts. Lord Dunedin and Lord Justice Hamilton were, on the passing of the Appellate Jurisdiction Act, added to the judicial strength of the House of Lords and the Privy Council, and Mr. Justice Phillimore was promoted to the Court of Appeal. The Lord Justiceship made vacant by the resignation of Sir George Farwell was filled by Mr. Justice Swinfen Eady, to whose place in the Chancery Division Mr. Justice Astbury was appointed. When the Judicial Commission recommended the appointment of an additional judge, Mr. Justice Atkin began to assist in clearing the King's Bench lists of their arrears.

In an article on the estate market in 1913, the *Times*, in its issue of the 27th of December, says: In the way of a bargain there is now but little disposition to "cavil on the ninth part of a hair." Reserves remain at or near the low point which they touched two or three years ago, if we except a slight hardening in respect of the smaller freehold ground-rents, which show a fractional advance, where the reversion is not too remote and the income is well covered. Large parcels of freehold ground-rents in lots suitable for the small investor, have been successfully dealt with during the year, but the more important ground-rents have failed to find buyers, partly because of the growing abund-

ance of remunerative investments in other directions, and more especially because insurance companies and other investing corporations are anxious to gauge the probable scope of the urban land proposals. Interference with freedom of contract at the expiration of leases would inevitably upset all existing calculations as to value. To submit the question of the future income to a tribunal instead of leaving it to be adjusted according to the laws of supply and demand would be a serious matter for owners.

Mr. Christopher Smyth, writing to the *Times* of the 29th of December, from Little Houghton House, Northamptonshire, says:—As one of the "hasty and ill-informed chairmen of quarter sessions whose blunders it has been the function of the Court of Criminal Appeal to correct" (see your article on "New Policy in Criminal Appeal," the 22nd of December), may I venture to suggest that the learned judges constituting that court might do us a very good turn by laying down a few general principles for our guidance in passing sentences with a view to obviating, as far as possible, the frequent reduction of the sentences inflicted by us, which I believe to have a bad effect on the criminal and non-criminal classes alike, in tending to bring the administration of the law into disrespect? In the first few years after the passing of the Court of Criminal Appeal Act two or three of my sentences were reduced by the court, and wishing to avoid a repetition of this for the future I wrote to one of the learned judges who very frequently sits in the Court of Criminal Appeal, whom I know well and whose friendship I highly value, asking his advice in the matter of passing sentences, and he was kind enough to explain to me the principles on which the court acts, with the result that I have not had a sentence reduced since.

Mr. J. M. Yates, K.C., the Stipendiary Magistrate for the Manchester Division of Lancashire, writing to the *Times* of the 26th of December on "The Trial of Prisoners at Sessions," says: The letter of the Lord Chief Justice indicating his own views and that of the other judges on this question will be of the greatest assistance to courts of summary jurisdiction, and will, I am sure, be loyally followed by them. Twenty years ago the view was taken by nearly all courts that the repression of crime, and not the reformation of the criminal, was the object to be aimed at. Since then the more humane and, I venture to think, the far wiser view has been the aim of most, and it has been found, I think, that the least time it is possible to send a person to prison for is the best. The time that prisoners have to await their trial has, I am sure, a most depressing effect upon many of them, especially upon those who are in gaol for the second or third time, and who probably up to then have had very short sentences. It should not be forgotten that justices, through their probation officers, their police-court missioners, and the members of the committee of visiting justices, have a far greater opportunity than any other body of learning the private history, the past life, the ideas, and aspirations of prisoners, and are far more likely to know what is best to do in the interest of the persons charged than anyone else. I do not think the public realise the interest they take in the prisoners, before and after committal, whilst they are in prison, and after they leave it, through the prisoners' aid societies. There are many of us who hope that the time is not far distant when a prisoner will, as a matter of course, be committed for trial to the first tribunal able to try him, and so do away with the weary waiting in gaol for trial. Of course there are cases where there is little or no hope of reformation, and cases where in the interests of the public long sentences are necessary, but even these are better dealt with as soon as possible.

The Property Mart.

Forthcoming Auction Sales.

January 8.—Messrs. H. E. FOSTER & CRANFIELD, at the Mart, at 2: Reversions, &c. (see advertisement, back page, this week).

Court Papers.

Circuits of the Judges.

NOTICE.—In cases where no notice is appended to the names of the Circuit Towns both Civil and Criminal Business must be ready to be taken on the first working day; in other cases the note appended to the name of the Circuit Town indicates the day before which Civil Business will not be taken. In the case of Circuit Towns to which two Judges go there will be no alteration in the old practice.

The following Judges will remain in Town: THE LORD CHIEF JUSTICE OF ENGLAND, DARLING, J., LORD COLERIDGE, J., and HORRIDGE, J., during the whole of the Circuits; the other Judges till their respective Commission Days.

WINTER ASSIZES, 1914.	N. EASTERN.	MIDLAND.	OXFORD.	WESTERN.	S. EASTERN.	N. WALES.	S. WALES.	NORTHERN.
Commission Days.	Ridley, J. Bankes, J.	Channell, J. (1) Pickford, J. (2)	Scrutton, J. (1) Lush, J. (2)	Bucknill, J. (2) A. T. Lawrence (1)	Bray, J.	Avory, J.	Rowlatt, J.	Bailhache, J. (2) Atkin, J. (1)
Monday, Jan. 12	Dates not yet fixed.	Aylesbury	Reading	Devizes	Huntingdon	Welshpool	Haverfordwest	Appleby
Wednesday „ 14		Bedford	Oxford	Dorchester	Cambridge Civil Sat. 17	Dolgelly	Lampeter	Carlisle
Thursday „ 15		Northampton	Worcester	.. ..	Ipswich Civil Fri. 23	Carnarvon	Carmarthen	Lancaster
Friday „ 16		Leicester	Taunton	.. ..	Chelmsford Civil Fri. 6	Beaumaris	Brecon	.. ..
Saturday „ 17		.. ..	.. ..	.. ..	.. ..	Ruthin	Presteigh	Liverpool
Tuesday „ 20		.. ..	.. ..	.. ..	Norwich Civil Fri. 30	Mold	.. ..	.. ..
Wednesday „ 21		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Thursday „ 22		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Friday „ 23		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Saturday „ 24		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Monday „ 26		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Tuesday „ 27		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Wednesday „ 28		Oakham	Gloucester	Bodmin	Norwich Civil Fri. 30	.. ..	.. ..	.. ..
Thursday „ 29		Lincoln	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Saturday „ 31		.. ..	.. ..	Exeter 2	.. ..	.. ..	.. ..	.. ..
Tuesday, Feb. 3		Nottingham	.. ..	.. ..	Chelmsford Civil Fri. 6	.. ..	.. ..	.. ..
Friday „ 6		Derby	.. ..	Winchester 2	.. ..	.. ..	.. ..	.. ..
Saturday „ 7		.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..
Thursday „ 12		.. ..	.. ..	Bristol 2	.. ..	.. ..	.. ..	.. ..
Monday „ 16		Warwick and Birmingham not yet fixed.		.. ..	.. ..	.. ..	Chester (2) Cardiff (3)	Manchester
Monday, Mar. 2				.. ..	.. ..	.. ..	.. ..	.. ..

Winding-up Notices.

JOINT STOCK COMPANIES.

LIMITED IN CHANCERY.

London Gazette—TUESDAY, Dec. 23.

ALHAMBRA (LEICESTER), LTD.—Creditors are required on or before Jan 20, to send their names and addresses, and the particulars of their debts and claims, to Alfred G. Deacon, 13 to 16, Corridor chmbrs, Leicester, liquidator.

EDWARD BRANSCOMBE, LTD.—Creditors are required, on or before Feb 1, to send their names and addresses, and the particulars of their debts and claims, to George Millman Smerdon, Bank bldgs, Acton, liquidator.

CERCLE FRANCAIS (1909), LTD.—Creditors are required, on or before Feb 13, to send their names and addresses, and the particulars of their debts or claims, to Alfred Ernest Jarvis, liquidator.

EVER WHITE CO, LTD.—Creditors are required, on or before Jan 31, to send their names and addresses, and particulars of their debts or claims, to Maurice O. Beale, 4, London Wall bldgs, liquidator.

WILLIAM HASTINGS & CO, LTD. (IN VOLUNTARY LIQUIDATION).—Creditors are required, on or before Jan 3, to send their names and addresses, and the particulars of their debts or claims, to Messieurs Alfred Pontefract and Frederick Charles Crosland, 6, New st, Huddersfield, liquidators.

JONES BROS. (TOOTING), LTD.—Creditors are required, on or before Feb 1, to send their names and addresses, and particulars of their debts or claims, to Mr. Percy Mason, 61, Gresham st, liquidator.

MANCHESTER DYERS, LTD.—Creditors are required, on or before Jan 31, to send their names and addresses, and particulars of their debts or claims, to Ernest A. Chambers, 16, John Dalton st, Manchester, or Thomas Smethurst, 26, Pall mall Manchester, liquidator.

THE TRAMWAYS THIRD PARTY ASSURANCE, LTD. (IN LIQUIDATION).—Creditors are required, on or before Jan 31, to send their names and addresses, and the particulars of their debts or claims, to Arnold Bernard Johanning, 90, Cannon st, liquidator.

Creditors' Notices.

Under 22 & 23 Vict. cap. 35.

LAST DAY OF CLAIM.

London Gazette.—TUESDAY, Dec 23.

APPS, ALFRED, Strand Feb 4 Raper & Son, Battle, Sussex

ARCHIBALD, EDMUND DOUGLAS, Springfield rd, St John's Wood Jan 23 Johnson & Co, King's Bench walk

ASH, CONSTANCE ANNA, Devonport Jan 31 Gard & Co, Devonport

BAKER, ROBERT SUMMERS, North Walsham, Norfolk Jan 20 Purdy & Holley, Aylsham Norfolk

BARNINGHAM, WILLIAM, Reading Jan 31 Bradd & Riggall, Watford

BELL, NAPOLEON, Shieldfield, Newcastle upon Tyne Jan 13 Dickinson & Co, Newcastle upon Tyne

BLAKENEY, HENRY ROSS, Folkestone Jan 17 Wynne Baxter & Keeble, Laurence Pountney hill

BOOTH, MARY ANN OAKLEY, Salford, Lancs Jan 31 Robinson & Co, Manchester

BROWN, JOSEPH MAJOR, Great Grimsby, Stevedore Jan 31 Haddelsey & Co, Great Grimsby

BROWNING, LOUISA ANNE, Richmond, Surrey Jan 31 Page & Scorer, Clements inn, Strand

CATES, FRANK, Brinsley, Notts, Licensed Victualler Jan 24 Walker & Hanson, Nottingham

CHAPMAN, ALEXANDER, Stockton on Tees Jan 31 Cohen, Stockton on Tees

CLEWLOW, FREDERICK WILLIAM, Sidcup, Kent, Solicitors' Clerk Jan 30 White & Leonard, Bank bldgs, Ludgate circus

COHEN, WOLF HENRY, Shirland rd, Maida Vale Jan 27 Russell & Arnholz, Great Winchester st

COOPER, CHARLES, Braishfield, nr Romsey, Southampton Jan 20 Bell, Romsey

COOPER, ELLEN TODD, Braishfield, nr Romsey, Southampton Jan 20 Bell, Romsey

COTES, Colonel CHARLES JAMES, Pitchford Hall, Salop Jan 31 Dawson & Co, New sq, Lincoln's inn

COTTRELL, THOMAS JAMES, Reading, Cattle Salesman Jan 10 Kent, Reading

COURTNEY, WILLIAM PRIDEAX, Pall Mall Feb 28 Janson & Co, College Hill

CRITCHLEY, WILLIAM JOHN, Coram st, St Pancras Jan 19 Liddle & Liddle, Great Tower st

DALTON, EMMA, West Malvern, Worcester Jan 13 Foster, Malvern

DOW, WILLIAM, Darnall, Sheffield, Crane Driver Jan 31 Kesteven, Sheffield

DREW, JOHN FREDERICK, Devizes, Wilts, Corn Merchant Jan 31 Jackson & Jackson, Devizes

FISHER, MAX, Commercial rd, Leather Merchant Feb 7 Barrett & Co, Leadenhall st

FORBES, HENRY LUMSDEN, Guildford Jan 20 Few & Co, Surrey st

HAYWARD, RICHARD, Chitterne, Wilts Jan 31 Jackson & Jackson, Devizes

HOLTBY, GODFREY, Manchester Jan 31 Chapman & Co, Manchester

HOOKER, HARRIET, Walthamstow, Essex Jan 31 Freeman & Brindley, Lea Bridge rd Leyton

JACKSON, CHARLES WILLIAM, Salford, Lancs, Merchant Jan 28 Dendy & Paterson, Manchester

JEX-BLAKE, CAROLINE ANNE, Brighton Feb 2 Gray & Son, New ct, Lincoln's inn

KIRK, CHARLES, Sleaford, Lincs Jan 31 Caddick & Walker, Birmingham

LEA, JOHN, Stapleford, nr Chester, Farmer Jan 10 Bengery, Chester

MILLER, HORACE, Bristol Jan 21 Bevan & Co, Bristol

MORTON, EMILY MARIAN, Great Malvern, Worcester Feb 14 Morrell & Co, Oxford

NOEL, MILLICENT MARY, Eccleston sq Jan 10 Meynell & Pemberton, Old Queen st Westminster

PHILLIPS, FERDINAND WILLIAM, Egliston rd, Putney Jan 31 Collyer-Bristow & Co, Bedford row

POLLOCK, MARGARET EMMA, Horbury cresc, Notting Hill Jan 7 Thompson, Bedford row

POOLE, EDITH, Oxford Jan 14 Franklin, Oxford

RICHARDSON, JOHN ISAAC, Peterborough Jan 31 Woolley, Clement's inn, Strand

SEEGER, HENRY SAMUEL, Park st, Camden Town Jan 26 Raphael & Co, Coleman st

SLATER, GEORGE EDWARD, Birmingham, Beer Retailer Jan 31 Cottrell & Son, Birmingham

SMITH, HENRY, Hertford, Hotel Keeper Feb 20 Longmore & Co, Hertford

SOMMERS, RHODA, Margaret st, Stamford Hill Jan 31 Witchell & Sons, Stroud

TOWN, JACOB, Halifax, Wheelwright Jan 22 Dey, Halifax

VARNEY, JOHN THOMAS, Wendover, Bucks Jan 19 Maynard, Queen Victoria st

WATSON, SAMUEL, Stockton on Tees, Shoeing Smith Feb 2 Downey, Stockton on Tees

WEEKS, JOHN, Lyme Regis, Decorator Jan 17 Whetham, Bridport

WILLS, EMILY, Birmingham Jan 23 Westwood & Co, Birmingham

WILTSHIRE, JOSEPH, Devizes, Wilts Jan 17 Wansbroughs & Co, Devizes

WITCHELL, JANE, Staple Hill, Gloucester Jan 20 Perham & Sons, Bristol

Bankruptcy Notices.

London Gazette.—TUESDAY, Dec. 23.

RECEIVING ORDERS.

BROWN, JAMES THOMAS, Enfield, Cartage Contractor Edmonton Pet Dec 20 Ord Dec 20

DARLEY, JONATHAN, Ogleforth, York York Pet Dec 18 Ord Dec 18

ELPHINSTONE-OLLIF, SIDNEY LESLIE, St James st High Court Pet Nov 19 Ord Dec 19

FOSTER, THOMAS, York, late Coal Dealer York Pet Dec 18 Ord Dec 18

GUNTER, WILLIAM, Tenby, Pembroke, Boot Dealer Pembroke Dock Pet Dec 18 Ord Dec 18

HAMMOND, ARTHUR SYDNEY, Hendon, Cycle and Motor Dealer Barnet Pet Nov 25 Ord Dec 18

HOBBS, HUBERT, Cardiff, Bootmaker Cardiff Pet Dec 18 Ord Dec 18

HARTOP, WILLIAM JOHN, Heavitree, Exeter Exeter Pet Dec 17 Ord Dec 17

HURSE, JOHN EDMUND, Chiswick High Court Pet Oct 21 Ord Dec 19

JONES, ALFRED HENRY, New Bridge st, Medical Publisher High Court Pet Sept 30 Ord Dec 19

KITSON, ARTHUR EUSTON O'NEILL, Leicester, Commercial Traveller Leicester Pet Dec 20 Ord Dec 20

MARSHALL, WILLIAM, and STEPHEN MARSHALL, Nottingham, Furniture Dealers Nottingham Pet Dec 20 Ord Dec 20

MATTHEWS, JAMES LEONARD HAMPTON, Harrogate, Yorks, Builder York Pet Dec 18 Ord Dec 18

MAWER, CHARLES, Barton on Humber, Ironmonger Great Grimsby Pet Dec 17 Ord Dec 17

MOODY, RICHARD JOHN, Portsmouth, Butcher Portsmouth Pet Dec 2 Ord Dec 19

MUNDY, ROBERT, Alhampton, nr Evercreech, Somerset, Road Contractor Wells Pet Dec 18 Ord Dec 18

OETKE, JOHN HENRY, Folkestone Canterbury Pet Dec 10 Ord Dec 20

PAVEY, WILLIAM, Patcham, Sussex, Farmer Brighton Pet Dec 18 Ord Dec 18

PICKARD, WALTER, Horrogate York Pet Nov 25 Ord Dec 19

ROBINSON, CLIFTON, Piccadilly High Court Pet Aug 21 Ord Dec 18

ROFFE, GEORGE, City rd, Cycle Agent High Court Pet Nov 24 Ord Dec 17

WHATTOFF, JOHN CHARLES, Deeping gate, Northampton, Farmer Peterborough Pet Dec 21 Ord Dec 20

WILES, CHARLES WILLIAM, Warrenby, Yorks, Labourer Middlesbrough Pet Dec 20 Ord Dec 20

ZIGNIERIS, G, Monument station bldgs High Court Pet Nov 14 Ord Dec 18

FIRST MEETINGS.

ALCOTT, WALTER HERBERT, Birmingham, Wholesale Confectioner Dec 31 at 12 Ruskin chmbrs, 191, Corporation st, Birmingham

ASPDEN, FREDERICK, Darwen, Lancs, Quarryman Dec 31 at 10.30 Off Rec, 13, Winckley st, Preston

BARCHARD, HARRY G, Manchester, Silk Broker Jan 3 at 1 Off Rec, 8, King st, Norwich

BLAKE, CHARLES, Bilston, Staffs, Electrical Engineer Dec 31 at 12.30 Off Rec, 20, Lichfield st, Wolverhampton

BLASHILL, HERBERT JOHNSON, Bridlington, Painter Jan 2 at 4 Off Rec, 48, Westborough, Scarborough

BREWER, WILLIAM, Cardiff, Insurance Agent Dec 31 at 11 Off Rec, 14i, Commercial st, Newport, Mon

COGHLAN, ANDREW, Cardiff, Engineer Jan 2 at 3 Off Rec, 117, St Mary st, Cardiff

COSTAR, ERNEST, and AUBREY BOX, Boscombe, Tailors Dec 31 at 12 Off Rec, Midland Bank chmbrs, High st, Southampton

DARLEY, JONATHAN, Ogleforth, York Jan 8 at 3 Off Rec, The Red House, Duncombe pl, York

DOLMAN, ROBERT ASHMALL, Lichfield, Monumental Stone Mason Dec 31 at 12 Off Rec, 30, Lichnield st, Wolverhampton

DUNNING, WILLIAM, Northallerton, Yorks, Joiner Jan 7 at 11.30 Railway Hotel, Northallerton

DYTHAM, HENRY JAMES, Whitstable, Kent Dec 31 at 11.15 Off Rec, 68A, Castle st, Canterbury

EDMUNDS, REGINALD GEORGE, Saltley, Birmingham, Builder Dec 31 at 11.30 Ruskin chmbrs, 191, Corporation st, Birmingham

EDMUNDS, CHARLES JAMES, Longton, Staffs Jan 7 at 3 Off Rec, King st, Newcastle, Staffs

EPHINSTONE-OLLIF, SIDNEY LESLIE, St James st Jan 6 at 11 Bankruptcy bldgs, Carey st

FOSTER, THOMAS, York, Late Coal Dealer Jan 8 at 3.30 Off Rec, The Red House, Duncombe pl, York

HARTOP, WILLIAM JOHN, Heavitree, Exeter Dec 31 at 11.30 Off Rec, 9, Bedford cir, Exeter

HURSE, JOHN EDMUND, Chiswick Jan 6 at 12 Bankruptcy bldgs, Carey st

JONES, ALFRED HENRY, New Bridge st, Medical Publisher Jan 6 at 1 Bankruptcy bldgs, Carey st

LAMMING, SIDNEY, Astwick, Beds, Farmer Dec 31 at 2.30 The Swan Hotel, Biggleswade

LUCKMAN, A DICK, Chancery ln Jan 7 at 11 Bankruptcy bldgs, Carey st

MASON, EDMUND CARTWRIGHT, Nottingham, Clerk Dec 31 at 12 Off Rec, 4, Castle pl, Park st, Nottingham

MAWER, CHARLES, Barton-on-Humber, Ironmonger Jan 1 at 10.30 Off Rec, St Mary's chmbrs, Great Grimsby

MELLISH, WILLIAM ROBERT, Stuart rd, Wimbledon, Restaurant Keeper Jan 2 at 2.30 Off Rec, 12A, Marlborough pl, Brighton

MOODY, RICHARD JOHN, Portsmouth, Butcher Jan 1 at 3 Off Rec, Cambridge junc, High st, Portsmouth

MOSCOVITCH, LEON, Middlesex st, Furrier Jan 7 at 12 Bankruptcy bldgs, Carey st

NASH, THOMAS OXLEY, Plymouth, Produce Commission Agent Dec 31 at 3.30 7, Buckland ter, Plymouth

PAUL, LEWIS, Calstock, Cornwall, Butcher Dec 31 at 3.15 7, Buckland ter, Plymouth

PRESCOTT, WILLIAM THOMAS, Combe Down, Somerset, Contractor Dec 31 at 11.45 Off Rec, 26, Baldwin st, Bristol

RAMSEY, THOMAS, Liverpool, Surveyor Jan 9 at 12 Off Rec, Union Marine bldgs, 11, Dale st, Liverpool

RICE, CHARLES LAKE, Bristol, Builder Dec 31 at 11.30 Off Rec, 26, Baldwin st, Bristol

ROBINSON, CLIFTON, Piccadilly Jan 5 at 11 Bankruptcy bldgs, Carey st

ROFFE, GEORGE, City rd, Shoreditch, Cycle Agent Jan 5 at 1 Bankruptcy bldgs, Carey st

SERGEANT, WILLIAM RICHARD, Barrow on Humber Dec 31 at 11 Off Rec, St Mary's chmbrs, Great Grimsby

THOMPSON, THOMAS MAJOR, Liverpool Commercial, Traveller Jan 2 at 11 Off Rec, Union Marine bldgs, 11 Dale st, Liverpool

WALTERS, WALTER GILBERT, Worle, Somerset, Baker Dec 31 at 12 Off Rec, 26, Baldwin st, Bristol

WILDER, MARY, Pegwell Bay, Kent Dec 31 at 10.30 Off Rec, 68A, Castle st, Canterbury

ZIGNIERIS, G, Monument Station bldgs Jan 5 at 12 Bankruptcy bldgs, Carey st

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